

December 16, 2010

Mr. Ford called the regular meeting of the Union Township Planning Board/Board of Adjustment to order at 7:00 p.m. He read the Sunshine Statement.

Members Present: Mr. Severino, Mr. Bischoff, Mr. Nace, Mrs. Corcoran,
Mr. Badenhause, Mr. Ryland, Mr. Taibi, Mr. Ford, Mr. Kirkpatrick

Members Absent: Mr. Walchuk, Mr. Kastrud

Others Present: Atty. Yolanta Maziarz, Robert Clerico, Carl Hintz, Vincent Uhl,
Atty. Donald Souders, Robert Zederbaum, Lisa Frantz
Atty. Lloyd Tubman, Amreth Panda, Tom Petto,
Atty. Scott Carlson, William Mulligan, Lawrence Galiano
Jennifer Williams, Michele McBride

Approval of Minutes: Mr. Kirkpatrick made a motion to approve the minutes of the October 28, 2010 meeting. Mr. Nace seconded the motion.

Vote: Ayes: Mr. Kirkpatrick, Mr. Nace, Mrs. Corcoran, Mr. Badenhause,
Mr. Ryland, Mr. Ford

Abstain: Mr. Severino, Mr. Bischoff, Mr. Taibi

Issue of Completeness: Lehigh Gas/Jutland Convenience Store: Block 13, Lot 11.01, 169 Perryville Road: Mr. Kirkpatrick began chairing the meeting. Atty. Donald Souders, representing applicant, noted there was a history of the application related primarily to completeness. Mr. Souders said applicant's Engineer, Robert Zederbaum, had submitted information, dated November 29, 2010. Mr. Clerico had issued a letter, dated December 14, 2010, in response to the submissions. Mr. Zederbaum responded to that letter on December 15, 2010. Mr. Kirkpatrick asked Mr. Clerico to address his December 14, 2010 letter. Mr. Clerico identified various documents previously submitted, as well as new updated information. He noted that applicant had not submitted a new application form. The Board had denied the previously submitted application, without prejudice, in a Resolution memorialized on October 28, 2010. Atty. Maziarz said a new application is required. Mr. Clerico said signed or sealed affidavits and certifications had been filed with the Board secretary. He felt one set of originals was adequate.

Mr. Clerico cited waivers requested. Applicant requested a temporary waiver from providing descriptions of easements or restrictions. Mr. Clerico recommended granting that waiver. He recommended that the waiver request from provided site-capacity calculations be granted. Mr. Clerico said the Board should reconfirm their action taken on March 25, 2010 granting a waiver from providing topographical information extending 200 feet from the site. He recommended the Board grant a waiver requiring the location of trees in excess of ten inches in diameter. Mr. Clerico stated that a design for replacement of the septic system had been provided, with supporting documentation from HCHD and some NJDEP Permits.

Mr. Clerico recommended granting applicant's request for a waiver from setting additional markers on the property. The request for a waiver from providing a right-of-way dedication has been withdrawn. Mr. Clerico said the Board could grant a temporary waiver from documenting site easements, since frontages on the lot are controlled by NJDOT and/or Hunterdon County. He said a temporary waiver could be granted from documenting drainage easements, pending determination during review, as to whether they would be required. Applicant has documentation from Hunterdon County Soil Conservation District that a soil erosion plan is not needed. Regarding a storm water management plan, Mr. Clerico recommended granting a temporary waiver. If the Board determined that plan was required, it could be a part of the technical review. Applicant is exempt from preparing an E.I.S. since disturbance is less than 10,000 square feet.

Applicant submitted a request for an L.O.I. Mr. Clerico recommended granting a temporary waiver, since they have a NJDEP Permit to complete disturbance outside of the impervious area associated with replacement of the septic system. Mr. Clerico deferred the aquifer test and carbonate rock area investigation requirement to Vincent Uhl. .

Mr. Kirkpatrick emphasized a new application form is required. He said the Board could deem the application complete pending submission of the new form. The clock would start running on the date the date of submission of the new application. Mr. Kirkpatrick said he was fine with temporary waivers. He asked if there were any trees being disturbed. Robert Zederbaum, applicant's Engineer, said the only disturbance was within the septic system area. Mr. Kirkpatrick asked that trees greater than ten inches in diameter be identified. He told Mr. Zederbaum that should be done by the time testimony begins. A temporary waiver would be granted.

Mr. Kirkpatrick said a temporary waiver could be granted from performing the aquifer test. He noted that the use from a garage to a convenience store would change the water consumption. Mr. Uhl's review may indicate that the test is required. Mr. Kirkpatrick asked about a traffic report. A report was submitted on January 14, 2010. Applicant will submit additional copies.

Mr. Kirkpatrick asked for other discussion. Mr. Hintz said he had nothing to discuss for completeness. Mr. Uhl said he had requested documentation on water use and quality. Mr. Zederbaum said that water quality data had been submitted. He also submitted data indicating the site is not in the carbonate rock area.

Mr. Kirkpatrick asked Mr. Clerico to recite waiver requests. Permanent waivers were for Site capacity calculations, Topography within 200-feet; Location and description of monuments; Temporary waivers were for Metes and bounds description, Location of trees 10 inches in diameter to be documented in the area of the septic system, Site easements, pending input from State and County agencies,

Drainage easements – to be determined during review, Storm water management – to be reviewed, L.O.I. waiting reply from NJDEP, Aquifer and Carbonate Area District – to be reviewed by Mr. Uhl.

Mr. Kirkpatrick asked for a motion to deem the application complete, subject to additional information on waivers and the filing of a new application, with the understanding that it will not be administratively complete until the application is received.

Mr. Severino made the motion. Mr. Badenhause seconded the motion.

Vote: Ayes: Mr. Severino, Mr. Badenhause, Mr. Bischoff, Mr. Nace,
Mrs. Corcoran, Mr. Ryland, Mr. Taibi, Mr. Ford, Mr. Kirkpatrick

Memorialization of Resolution: Fallone: Block 22, Lot 34, Perryville Road:

Mr. Bischoff made a motion to memorialize the Resolution. Mr. Kirkpatrick seconded the motion.

Vote: Ayes: Mr. Kirkpatrick, Mr. Nace, Mr. Badenhause, Mr. Ryland

Empirion, Inc: Block 13, Lot 6, Frontage Road: Request for Waiver of Site Plan:

Atty. Lloyd Tubman, representing applicant, said her client is requesting a waiver of site plan to place a nitrogen cylinder on an existing concrete pad adjacent to the Perryville III Building. Ms. Tubman cited Section 30:14.4 of the Land Use Ordinance that allows the Board to waive the application process. She introduced Dr. Amreth Panda, Product Manager and Lab Supervisor at Empirion. Atty. Maziarz swore Dr. Panda. He stated his educational background. Dr. Panda said Empirion manufactures semiconductor chips used in electronic appliances. He said the Lab performs research and experiments on new materials to be used in the chips. Dr. Panda said nitrogen, which is in the gaseous form, is used in the storage of silicone wafers.

Empirion uses approximately 200 liters per day. The tanks weigh about a thousand pounds each. There are two deliveries of approximately four tanks every week. Dr. Panda stated the inefficiencies of the present delivery system, which requires site employees to order, refill and transport. The new cylinder/tank would hold about 1,500.liters. Remote telemetry would notify supplier. Site employees would not be involved. Dr. Panda said the tank is approximately four-and-a-half feet in diameter.

The tank is about six feet high. It was proposed to place the tank within the existing wall recess. Dr. Panda said the proposal might have to be amended to state that most of the tank would be within the wall recess. Mr. Kirkpatrick had a question about the bollard protecting the tank being further from the wall than the bollard below it. Mr. Panda believed the bollards were in the same location. Mr. Severino asked about the pressure of the tank and the piping. Dr. Panda said the pressure is about 300 PSI. The piping is proposed to run along the wall as shown on the Plan and would be out of sight and not within reach.

Citing his experience at a pharmaceutical manufacturing facility and fortification of the nitrogen tanks there, Mr. Badenhausem voiced a concern about the risks associated with nitrogen. Dr. Panda emphasized the system proposed is not on the scale of a manufacturing facility. Mr. Badenhausem said a six by four tank could make a mess. Mr. Panda said that based on past micro-bulk delivery system installations, the nitrogen suppliers have indicated the proposal should be sufficient.

Mr. Kirkpatrick asked Dr. Panda if building permits would be required. Mr. Panda replied in the affirmative. Mrs. Corcoran asked the type of piping and placement of the piping. Dr. Panda said the piping is copper and it will run along the wall and into applicant's lab. Mr. Ford asked if applicant was a tenant and if the building owner had granted permission. The answer to both questions was in the affirmative. Mr. Ford had a question about the type of delivery truck. Dr. Panda believed it would be smaller than a propane truck. Mr. Kirkpatrick opined that the placement and size of the tank, as well as the placement of the bollard are the key factors. He did not believe a site plan would be required, unless the bollard is further away from the existing wall. Mr. Kirkpatrick asked for a motion to grant the waiver, with the provision that the tank is not larger than dimensions stated and that bollards associated with it will not extend any further from the wall than that which exists. Mr. Hintz felt that Mr. Clerico should receive and review information on the depth of the concrete that bollards would be installed. Mr. Clerico opined that would be a construction code matter. Atty. Tubman asked if the Board permit applicant to install two smaller cylinders if the proposed tank diameter would necessitate the bollards being further from the wall. Mr. Kirkpatrick thought that would be acceptable as long as the two tanks did not exceed dimensions.

Mr. Ford made a motion to waive the requirement for a site plan, subject to the condition that whether one or two tanks are placed, their height does not exceed the height of the wall and that the protective bollards are no further from the wall than existing bollards. Mr. Kirkpatrick said the volume of the tank or tanks should not exceed 1,500 liters. Mr. Severino seconded the motion.

Vote: Ayes: Mr. Ford, Mr. Severino, Mr. Bischoff, Mr. Nace, Mrs. Corcoran,
Mr. Badenhausem, Mr. Ryland, Mr. Taibi, Mr. Kirkpatrick

Atty. Tubman asked for clarification that three tanks would be acceptable. Mr. Kirkpatrick said that would be fine. The volume must not exceed 1,500 liters.

Mayor Severino and Mr. Bischoff left prior to the Pilot matter.

Pilot Travel Centers, LLC: Block 11, Lot 24.03, 68 Route 173 West: Atty. Scott Carlson said applicant is seeking relief from a condition in the Resolution limiting the amount of water it withdraws from the wells to 3,273 gallons per day (gpd). Mr. Carlson said Pilot had conducted an aquifer test. Atty. Carlson said he had three witnesses. Lawrence Galiano and Jennifer Williams from Sovereign Consulting and William Mulligan, Pilot Travel Centers. Atty. Maziarz swore them.

Atty. Carlson asked Mr. Galiano to come forward. Mr. Galiano stated his credentials. Mr. Kirkpatrick accepted them. Mr. Galiano said Sovereign Consulting had conducted the aquifer test and prepared a report in accordance with the Land Use Code. He described the results of the test that was performed on October 28, 2008.

Mr. Galiano opined that there would not be any detrimental impact to the aquifer if Pilot were permitted to conduct its facility to the maximum capacity of its proposed wastewater treatment plant that is 6,337 gpd. Mr. Galiano said he believes that Pilot has satisfied requirements of the Land Use Code. Mr. Uhl had prepared a letter dated September 14, 2010 stating his concern with possible contaminant drawdown. He recommended incremental increase of the pumping rate. Mr. Galiano and Ms. Williams had met with Mr. Uhl. The incremental increase was agreed upon. Water samples would be taken monthly and checked for potable water coliform and volatile organic compounds. Mr. Kirkpatrick asked Mr. Galiano if he had prepared reports submitted to Mr. Uhl. He also asked Mr. Galiano why he did not have any professional license. Mr. Galiano said he has a geologist's license in Pennsylvania. He said New Jersey does not have licensure. Mr. Galiano said he has a subsurface evaluator license through the NJDEP and has applied for a license as a remediation professional.

Jennifer Williams, who is the project manager for site remediation and monitoring said she has a subsurface evaluator's license. Mr. Kirkpatrick asked Ms. Williams if she was an LSRP. Ms. Williams said she was not and is not eligible yet. Mr. Kirkpatrick asked Mr. Uhl if he had any questions. Mr. Uhl requested a consolidation of reports, provision of water quality data, an update on the status of remediation and the agreement to increase pumping to one-thousand gpd over a three-to-four week period. Water quality will be monitored during that time and thereafter for about six months. The closest well will also be monitored for drawdown. Atty. Carlson said if drawdown occurs and contamination increases Pilot would stop increasing and reevaluate. Mr. Kirkpatrick asked if Pilot would then return to original levels until the problem could be determined. Mr. Galiano said yes. Mr. Mulligan agreed.

Mr. Ford voiced a concern about the time frame of the tests. He did not think results would be evident in the proposed period of time. Mr. Uhl said the increase would not be that large. He felt it was a conservative approach. Mr. Ford asked if the actual usage would increase or would Pilot just dump the thousand gpd on the ground. Mr. Galiano replied. He said the water would be used on-site. If there is not a problem, usage would be increased by another thousand gpd. Mr. Ford asked about usages. Mr. Kirkpatrick said that was not a part of the scope of the Resolution. He understood Mr. Ford's concern; however, if Pilot complies with the pump test, they are allowed to increase consumption.

Mr. Kirkpatrick asked that groundwater levels be monitored down slope of the septic system to determine that there is no effect on the upper aquifer. Mr. Galiano said that would not be feasible. Mr. Uhl said it would be problematic because of the location of the upper aquifer. Mr. Ryland had a question about generating the maximum allowable usage. Atty. Carlson said it might be difficult to reach the 6,337 gpd every day.

Mr. Uhl said Pilot should try to get as close to their real use as possible. Ms. Williams said that Pilot would be monitoring usage and quality for about six months. Mr. Kirkpatrick asked about testimony that there was no connection between the upper contaminated aquifer and the lower aquifer. Mr. Uhl explained. He did not think there would be significant leakage. Mr. Galiano agreed with Mr. Uhl. Mr. Badenhausen said it had been stated earlier that there was no way to monitor the situation. Mr. Galiano said there is a transducer that would be used for monitoring. Mr. Uhl recommended that the closest and deepest well be monitored.

Mrs. Corcoran wondered how water usage would be increased. Atty. Carlson said showers would be opened. Ms. Williams and Mr. Galiano said facilities that are not in use now would be made available. Mr. Clerico asked the number of wells on the property. Mr. Uhl said there are two production wells. Mrs. Corcoran asked about the frequency of samples. Ms. Williams explained. Mrs. Corcoran noted that neither Ms. Williams nor Mr. Galiano had LSRPs. Did Sovereign? Ms. Williams said Sovereign has several. There is one assigned to the project. Mr. Uhl said all sites will have to be under an LSRP by May 2012.

Mr. Kirkpatrick said he was inclined to allow the increase with conditions that the monitoring of both the groundwater levels and the levels of contaminants in the lower aquifer continue. He was concerned that levels of contaminants in the lower aquifer could increase as the pumping rate increased. Atty. Carlson said monitoring will continue until remediation of the upper aquifer is complete. Ms. Williams said Pilot would be monitoring the lower aquifer too. This will be done on a quarterly basis. Ms. Williams said results would be submitted to Mr. Uhl. Mr. Clerico asked about discrepancy in meter readings. Atty. Carlson said he understood Pilot had someone coming to the site next week to resolve a discrepancy matter. Mr. Clerico asked to be notified in order that someone from his office meets with Pilot's representative. Atty. Carlson suggested that one calibrated meter be installed.

Mr. Clerico asked about the two wells. Ms. Williams said it would be for backup if one failed. Mr. Galiano said it was for an emergency situation. He did not think the two had ever been used at the same time. Mr. Uhl said the yield of each well was calculated at about ten gallons a minute.

Mr. Kirkpatrick asked for a motion to approve the increase in groundwater withdrawal to 6,500 gpd, provided testing required by Mr. Uhl is implemented, as well as the monitoring of the groundwater quality as we discussed, and that if either of those tests indicated a negative impact on the groundwater level or groundwater quality, the withdrawal shall immediately return to 3,273 gpd until Pilot figures out what the issues are and could return to the Board again.

Mr. Badenhausen made the motion to approve the increase, with those conditions. Mrs. Corcoran seconded the motion. Mr. Ford asked if that meant monitoring of wells until the upper aquifer was cleaned up. Mr. Kirkpatrick replied in the affirmative. Mr. Ford asked if during the monitoring period if there is deterioration Pilot would need to return to the Board. Mr. Kirkpatrick said that was correct.

Vote: Ayes: Mr. Badenhausen, Mrs. Corcoran, Mr. Nace, Mr. Ryland, Mr. Ford,
Mr. Kirkpatrick
Naye: Mr. Taibi

Atty. Carlson thanked the Board. He also said he had correspondence from Atty. Anderson concerning the Anti-Idling Plan. Mr. Carlson said a Plan should be submitted next week. He anticipated returning to the Board since Pilot requires approval.

Correspondence: St. Catherine of Siena RC Church: Block 22, Lot 34.02 Perryville Road: For Board's Information

Scheduling Reorganization and First Regular Meeting: The Board will reorganize on January 13, 2011 at 7:00 p.m. Their regular meeting will be held on January 27, 2011 at 7:00 p.m.

Comments from the Public/Other Discussion: Members voiced concerns about traffic problems at Pilot. Michele McBride, Olde Forge Lane, also stated her concerns.

Renewable Energy Ordinance: Mr. Hintz gave a brief overview.

Motion to Adjourn: Mr. Nace made a motion to adjourn. Mr. Ford seconded the motion. (9:50 p.m.)

Vote: All Ayes

Grace A. Kocher, Secretary

